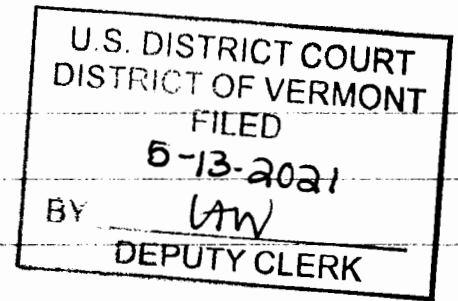


1055

United States Of America  
District Court  
Of Vermont



United States Of America

Everett A Simpson

Case 2:19-cr-00029-wks

Motion to Dismiss  
Fed. R. Crim. P. 12(b)(3)(B) And (b)(3)(A)

Defendant Everett Simpson Moves the Court  
to Dismiss the Indictment Pursuant to  
Rule 12(b) Of the Federal Rules Of  
Criminal Procedure

Grounds for Relief

This Motion Is Made On the Following  
Grounds

① Prosecutorial Misconduct

② Constitutional Grounds

③ Lack Of Jurisdiction

④ Multiplicity

2015

## (a) Defects In The Institution Of The Prosecution

The Prosecution Used Prejudicial Argument During The Grand Jury Presentation Of Case # 2:19-cr-00029-wks By Instructing The Grand Jury Of Legal Standards to be Applied When Determining Whether to Indict Mr. Simpson

These Instructions Were Legally Insufficient

## (b) Omitted Constitutional Requirement In The Indictment Rendering The Indictment "Void"

## (c) Prosecution Used Conduct That Undoubtedly Fell Outside The Legal Sweep Of The Statute "Jurisdiction Defect"

## (d) Prosecution Used Multiplying Within The Indictment

Amicus VOS  
536 US 549

In Federal Prosecutions No Person Shall be held to Answer for A Capital Or Otherwise Intamous Crime Unless On A Presentment Or Indictment Of A Grand Jury Alleging All Elements Of The Crime "Quoting" The US Const Amend (V)"

30FS

Elements Of the Crime (Quinn-Tamm) (V)  
 If fact is Element, Indictment Must Identify  
 It

"In Addition to Stating Elements, Indictment Must  
 Fairly Inform A Defendant Of the US  
 Charges Against, Which he Must Defend" 418 US 87

"It Is An Element Principle Of Criminal USV  
 Meaning that the Definition Of An Offense, Whether It be At Common  
 Law, Or by Statute Includes Generic  
 Terms, It Is Not Sufficient that the  
 Indictment Shall Charge the Offense, In  
 The Same Generic terms As In the  
 Definition, but Must State the Species" 92 USS 42

"It Must Descend to Particulars"

The Law Of the United States Court  
 Second Circuit, Is that Dismissal Of  
 An Indictment Is Justified to Achieve  
 Either Of 2 Objectives

2nd Cir  
 USV Hagen  
 712 F.2d  
 757  
 USV Fields  
 594 F.2d

(1) Eliminate Prejudice to A Defendant Or

638

(2) Pursuant to Our Supervisory Power to Prevent

4085

Prosecutorial Impairment Of The Grand Jury Independent Role

Multiplicity Of Counts Violated The Defendants Rights Under The Sixth Amendment

"The test to be Applied to Determine Whether There Are Two Offenses Or Only One Is Whether Each Statutory Provision Alleged Violated, Requires Proof Of An Additional fact Which The Other Does Not" Blockburger Vs US 289 US 299

"When Congress has the Will It has No Difficulty In Expressing - When It has the Will, That Is, Of Defining What It Desires to Make the Units Of Prosecution And More Particularly to Make Stick In A Single Crime Unit When Congress Leaves to the Judiciary the task Of Imputing to Congress An Undeclared Will the Ambiguity Should be Resolved In favor Of Lenity" Bar VUS 349 US 81

Sots

## Background

Mr. Simpson Is Charged In A four-Count Indictment Alleging Two Counts Of Kidnapping In Violation Of 18 USC § 1201 And Two Counts Of Transportation Of Stolen Vehicle In Interstate Commerce In Violation Of 18 USC § 2312

Mr. Simpson first Appeared February 2019 On A Complaint filed On January 1th 2019 the Court Ordered Simpson Detained And he has Remained Detained Since that Date,

Mr. Simpson Moves the Court to Hold this Motion before the United States District Court for the District Of Vermont, Located At 11 Elmwood Avenue Burlington Vt 05401

As the Complete facts Of the Law will be Brought forth Or Dismiss Counts (1) (2) (3) (4) Of the Indictment

Whereby Mr. Simpson Respectfully Moves A Hearing On this Motion Merits